

REMARKS/ARGUMENTS

Claims 83-99 are present in this application. By this Amendment, claims 57-82 have been canceled, and claims 83-99 have been added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

With reference to the Office Action, all claims 57-82 were rejected over prior art. Without conceding the rejections set forth in the Office Action, claims 57-82 have been canceled herein. Applicant thus respectfully submits that the rejections are moot.

With regard to new claims 83-99, Applicant respectfully submits that at least new independent claims 83 and 94 are distinguishable from the references of record.

For example, these claims are now limited to a step of providing a combined heating and blending apparatus that defines a microwave enclosure having a seat for the container, "the seat including an upwardly extending drive member, such that when the container is located on the seat, the blending element in the container is located in operative engagement with the drive member."

This feature is not shown in Boulard (US 4,751,357). Instead, Boulard describes a microwave enclosure 1 (see Figure 1) having a seat (sole plate 4) located in a lower region of the enclosure, and drive means (drive shaft 24) extending downwards from a top wall of the microwave enclosure 1. In use, a container (receptacle 27) having a 'blending' element (rotatable accessory 29) is first placed onto the seat. As such, the blending element is not directly engaged with the drive means when placed on the seat. Instead, the plate has to be elevated in order to engage the rotatable accessory 29 with the drive shaft 24.

The Boulard arrangement has inherent disadvantages. For example, the container has to be accurately positioned on the seat and restrained against movement when the plate 4 is

elevated, so as to ensure correct operative inter-engagement between the accessory 29 and the drive shaft 24. If the container or rotatable accessory is not correctly positioned on the plate prior to elevation, or if either were to moved from their correct position during elevation, the operative engagement between the element and drive shaft would be compromised. The drive shaft could also become damaged. Moreover, the Boulard apparatus requires a two stage process for bringing the container into an operative condition ready for mixing food product within the container, which is time consuming and not conducive to dispensing food product in a retail environment.

As such, Applicant submits that the invention is patentably distinct from the teaching of Boulard.

Applicant acknowledges that the apparatus disclosed in Porter (GB 2 159 027) does not require a lifting or raising operation in order to bring the container into an operative blending position. The apparatus of Porter is nevertheless devoid of a step of providing a seat having “an upwardly extending drive member” for engagement with the blending element, as required by claim 1. Moreover, the blending element in Porter is not motor driven, since it is relative movement between the container and a fixed paddle 11 (see Figure 1), which causes stirring within the container. The paddle arrangement is not conducive to effective blending and is only suitable for gentle ‘stirring’ of the food product as the container is rotated within the housing.

The present invention is advantageous in that the container can be readily positioned directly onto the seat, with the blending element brought into direct contact with a motor driven drive member in a single locating operation. This is not possible using the apparatus of Boulard or Porter. As such, the invention defined by the independent claims is patentably distinct from the heating and mixing apparatus of Boulard and Porter.

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Furthermore, it will be readily apparent that the method of placing a container on a seat in a microwave enclosure, with a blending element in the container located in direct engagement with an upwardly extending drive member external to the container so that the container is immediately ready for a blending operation within the enclosure is not possible using the container described in Astegno.

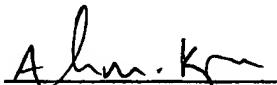
As such, Applicant respectfully submits that the claims are patentable over the references of record.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

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